

46 Am. Jur. 2d Judges § 215

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Judges

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IX. Disqualification to Act in Particular Case

F. Revocation or Removal of Disqualification

§ 215. Effect of removal of disqualification of judge

[Topic Summary](#) | [Correlation Table](#) | [References](#)

West's Key Number Digest

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Forms

Forms relating to orders and judge disqualification or withdrawal, generally, see Am. Jur. Pleading and Practice Forms, Judges; Am. Jur. Pleading and Practice Forms, Criminal Procedure [\[Westlaw®\(r\) Search Query\]](#)

Some jurisdictions that have addressed the issue hold that a judge may rescind a recusal where valid grounds appear on the record.¹

In jurisdictions where all orders entered after a disqualification are void, a judge who self-recuses from a case cannot subsequently preside over the same case, even though the original reason for disqualification no longer exists and neither party objects.²

A judge who self-recuses due to a friendship with counsel for one of the parties may revoke the recusal and reenter the case where the attorney withdraws from the case,³ unless the withdrawal is no more than a ruse wherein the attorney retains the same interests in the case after withdrawal as before, in which case the disqualification is not removed.⁴

A judge who would otherwise be disqualified because of a relationship to an attorney who has a contingent fee contract with one of the parties is no longer disqualified where the contingent fee contract is abrogated, even if the attorney does not withdraw from the case.⁵

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Footnotes

- 1 [Matthews v. State](#), 313 Ark. 327, 854 S.W.2d 339 (1993); [Morrison v. District of Columbia Bd. of Zoning Adjustment](#), 422 A.2d 347 (D.C. 1980); [In re Estate of Odineal](#), 220 Neb. 168, 368 N.W.2d 800 (1985).
- 2 [Cusimano v. Fred Florio & Kinemed, Inc.](#), 900 So. 2d 627 (Fla. 4th DCA 2005); [Fry v. Tucker](#), 146 Tex. 18, 202 S.W.2d 218 (1947).
As to grounds for disqualification, see §§ 86 to 162.
- 3 [Luce v. Cushing](#), 177 Vt. 600, 2004 VT 117, 868 A.2d 672 (2004).
- 4 [Western & A. R. R. v. Michael](#), 172 Ga. 561, 158 S.E. 426 (1931).
- 5 [Knickerbocker v. Worthing](#), 138 Mich. 224, 101 N.W. 540 (1904).

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